

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

DAVID W. BUTLER,

Defendant.

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: CIVIL ACTION NO. 00-1827
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**PLAINTIFF'S MOTION TO STRIKE, OR IN THE ALTERNATIVE,
FOR PERMISSION TO RESPOND TO, SUPPLEMENTAL DECLARATION**

Plaintiff United States Securities and Exchange Commission hereby seeks leave of this Court to strike the Supplemental Declaration recently filed by Defendant David Butler in support of his amended application, or in the alternative, to file a response to the Supplemental Declaration. The Commission's motion to strike is based upon this Court's lack of jurisdiction over this matter. The proposed Response is offered to address the revised methodology employed, and the conclusions set forth, in the Third Affidavit prepared by Steven Olson, which is attached to the Supplemental Declaration.

Dated: October 24, 2005

Respectfully submitted,

UNITED STATES SECURITIES and
EXCHANGE COMMISSION
100 F. Street, N.E.
Washington, DC
20549-9612
Tel: (202) 551-5140
Fax: (202) 772-9263

/s/ Timothy N. McGarey

TIMOTHY N. MCGAREY
Special Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that a copy of Plaintiff's Motion to Strike, or in the Alternative, For Permission to Respond to, Supplemental Declaration was served via U.S. Mail, postage prepaid, this 24th day of October, upon the following:

Donald J. Enright
FINKELSTEIN, THOMPSON & LOCHRAN
1050 30TH Street, NW
Washington, DC 20007

/s/ Timothy N. McGarey
Timothy N. McGarey